

**IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MASSACHUSETTS**

NUANCE COMMUNICATIONS, INC.,

Plaintiff and Counterclaim
Defendant,

v.

OMILIA NATURAL LANGUAGE
SOLUTIONS, LTD.,

Defendant and Counterclaim
Plaintiff.

Case No. 1:19-cv-11438-PBS

JOINT STIPULATION FOR FILING OF SECOND AMENDED COMPLAINT

WHEREAS on June 8, 2020, Plaintiff and Counterclaim Defendant Nuance Communications, Inc. (“Nuance” or “Plaintiff”) filed a First Amended Complaint against Defendant and Counterclaim Plaintiff Omilia Natural Language Solutions, Ltd. (“Omilia” or “Defendant”) adding Counts IX-XIII based upon the Computer Fraud and Abuse Act, the Copyright Act including the Digital Millennium Copyright Act, and the common law doctrines of conversion, and trespass to chattels. Dkt. No. 102.

WHEREAS Plaintiff noted in footnote 6 of its First Amended Complaint that a number of Nuance’s copyright registration certificates were delayed due to pandemic-related process changes at the U.S. Copyright Office.

WHEREAS on June 29, 2020, Defendant moved to dismiss Counts IX-XIII of the First Amended Complaint (Dkt. No. 120).

WHEREAS the delayed copyright registration certificates issued on August 18, 2020, and as soon as practicable, on August 19, 2020, Plaintiff contacted Defendant in writing to request its consent to amend the First Amended Complaint solely to add the newly issued copyright certificate numbers to Paragraph 41 of the First Amended Complaint.

WHEREAS Defendant stated in writing on August 25, 2020, that it did not object to Plaintiff’s proposal to amend the First Amended Complaint to add the additional copyright certificate numbers.

WHEREAS the parties agreed to inform the Court of the parties’ agreement and this Stipulation at the hearing on Defendant’s motion to dismiss.

WHEREAS during the hearing on Defendant’s motion to dismiss held on December 14, 2020, the Court stated that Plaintiff was permitted to amend the pleadings to assert infringement pursuant to 35 U.S.C. § 271(g) with respect to the asserted patents.

WHEREAS, while Omilia does not oppose the amendments, Omilia denies that there is any basis for Nuance’s allegations of infringement under § 271(g) and for Nuance’s claims under Counts IX-XIII of the First Amended Complaint.

WHEREAS the parties agree that the Court's Order on Defendant's motion to dismiss (Dkt. No. 120) will apply to the Second Amended Complaint because the First Amended Complaint will be superseded by the operative Second Amended Complaint and the listing of additional copyright registration numbers in Paragraph 41 as well as the added references to 35 U.S.C. § 271(g) in Paragraphs 70, 87, 102, 116, 130, 145, 159, and 175 do not affect any of the arguments raised in Defendant's motion to dismiss.

WHEREAS a copy of Plaintiff's proposed Second Amended Complaint is attached hereto as **Exhibit "A"** adding the additional copyright registrations to the list in Paragraph 41 and adding references to 35 U.S.C. § 271(g) in Paragraphs 70, 87, 102, 116, 130, 145, 159, and 175.

IT IS HEREBY STIPULATED, by and between Plaintiff and Defendant, by and through their respective counsel, that:

1. Plaintiff may file its Second Amended Complaint, a copy of which is attached hereto as **Exhibit "A."**

2. The parties' prior briefing on Defendant's motion to dismiss (Dkt. No. 120), and the Court's Order on Defendant's motion to dismiss, will be deemed binding on the Second Amended Complaint. For the avoidance of doubt, Omilia need not submit a separate motion to dismiss the Second Amended Complaint, and Defendant's answer to the Second Amended Complaint will be held in abeyance (and Defendant need not answer or otherwise respond to the Second Amended Complaint) pending the Court's order on Defendant's motion to dismiss.

Date: December 16, 2020

Respectfully submitted,

/s/ Christian E. Mammen

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*Counsel for Defendant Omilia Natural Language
Solutions, Ltd.*

CERTIFICATION PURSUANT TO LOCAL RULE 7.1(A)(2)

I hereby certify that the Parties have previously conferred on August 19 through August 28, 2020, with respect to the stipulated terms herein.

/s/ Christian E. Mammen
Christian E. Mammen

CERTIFICATE OF SERVICE

I hereby certify that this document and its exhibits attached thereto will be filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants following the parties' hearing on Defendant's motion to dismiss on December 16, 2020.

/s/ Christian E. Mammen
Christian E. Mammen